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DATE FILED: 9-14-09

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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JAMES McDERMOTT,

Plaintiff,

- against -

CENTERPLATE, INC., et al.,

Defendants.  
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09 Civ. 0276 (VM)

**CONDITIONAL**

**ORDER OF DISCONTINUANCE**

**VICTOR MARRERO, United States District Judge.**

Magistrate Judge Debra Freeman, to whom the Court referred this action for general pretrial supervision, having notified the Court, by memorandum dated September 10, 2009, a copy of which is attached, that the parties have reached an agreement in principle to settle this action without further litigation, it is hereby

**ORDERED**, that this action be conditionally discontinued without prejudice and without costs; provided, however, that within thirty (30) days of the date of this Order, the parties may submit to the Court their own Stipulation of Dismissal for the Court to So Order. Otherwise, within such time counsel for plaintiff may apply by letter for restoration of the action to the active calendar of this Court in the event by the deadline indicated the settlement is not consummated. Upon such notification, the defendant shall continue to be subject to the Court's jurisdiction, the Court shall promptly reinstate the action to its active docket and the parties shall be directed to appear before the Court, without the necessity of additional process, on a date within thirty days of the

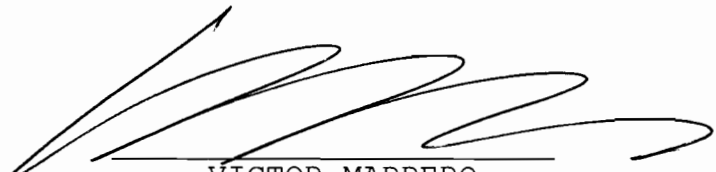
plaintiff's application for reinstatement, to schedule remaining pre-trial proceedings and/or dispositive motions, as appropriate. This Order shall be deemed a final discontinuance of the action with prejudice in the event plaintiff has not requested restoration of the case to the active calendar within such period of time.

Any further conferences with the Court scheduled in this action are canceled but shall be rescheduled as set forth above in the event plaintiff notifies the Court that the parties' settlement was not effectuated and that such conference is necessary to resume pretrial proceedings herein.

The Clerk of Court is directed to close this case.

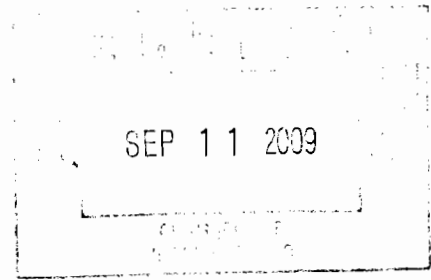
**SO ORDERED.**

Dated: NEW YORK, NEW YORK  
14 September 2009

A handwritten signature in black ink, consisting of several fluid, overlapping loops and a long horizontal stroke at the end.

VICTOR MARRERO  
U.S.D.J.

MEMORANDUM



**To:** Hon. Victor Marrero, U.S.D.J.  
**From:** Debra Freeman, U.S.M.J. *df*  
**Date:** September 10, 2009  
**Re:** *McDermott v. Centerplate, Inc., et al.*, 09 Civ. 0276 (VM) (DF)

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You referred this case to me for settlement. I held a settlement conference yesterday and am pleased to inform you that the parties reached an agreement in principle to resolve the action. I have asked counsel to try to finalize the paperwork and file a stipulation of dismissal within two weeks.

Since the parties have reached an agreement, I am closing the reference. Please let me know if I can be of any further assistance.

cc: Ms. Dorothy Guranich